

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
LIFETIME BRANDS, INC.,

Plaintiff,

-v-

USE BATH FIXTURES, L.L.C., et al.,

Defendants.
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JESSE M. FURMAN, District Judge:

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>10/30/2013</u>

13 Civ. 7444 (JMF)

ORDER

Plaintiff Lifetime Brands, Inc. brings this action against Defendants Use Bath Fixtures, L.L.C. and Michael J. Velsmid, Jr., invoking the Court's subject matter jurisdiction on the ground of diversity of citizenship. *See* 28 U.S.C. § 1332. Plaintiff alleges that it is a Delaware corporation. (Complaint ¶ 4). Plaintiff alleges that Defendant Use Bath Fixtures, L.L.C. is a limited liability company organized under the laws of the state of Georgia (Complaint ¶ 5), and that Defendant Velsmid is an individual who resides in the state of Georgia (Complaint ¶ 6).

It is well established that a limited liability company ("LLC") is deemed to be a citizen of each state of which its members are citizens. *See, e.g., Handelsman v. Bedford Vill. Assocs. L.P.*, 213 F.3d 48, 51-52 (2d Cir. 2000); *see also Altissima Ltd. v. One Niagara LLC*, No. 08-CV-756S(M), 2010 WL 3504798, at *2 (W.D.N.Y. Sept. 2, 2010) (noting that every other Court of Appeals to have considered LLC citizenship has held that an LLC has the citizenship of all of its members). Thus, a complaint premised upon diversity of citizenship must allege the citizenship of natural persons who are members of an LLC and the place of incorporation and principal place of business of any corporate entities that are members of the LLC. *See Handelsman*, 213

F.3d at 51-52; *see also, e.g., In re Bank of Am. Corp. Sec., Derivatives, and ERISA Litig.*, 757 F. Supp. 2d 260, 334 n.17 (S.D.N.Y. 2010). In the present case, the Complaint fails to do so.

Accordingly, it is hereby ORDERED that, on or before **November 13, 2013**, the Plaintiff shall amend its Complaint to allege the citizenship of each constituent person or entity comprising the Use Bath Fixtures, L.L.C (including the state of incorporation and principal place of business of any corporate entity member). If, by that date, the Plaintiff is unable to amend the Complaint to truthfully allege complete diversity of citizenship, then the Complaint will be dismissed for lack of subject matter jurisdiction without further notice to either party.

SO ORDERED.

Dated: October 30, 2013
New York, New York



JESSE M. FURMAN
United States District Judge